

BM



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,482	10/22/2001	Dean G. Rosenberg	088256-9025-00	9727

23409 7590 04/21/2005

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

EXAMINER

ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,482

Applicant(s)

ROSENBERG ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/21/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group II, claims 13-24, in the reply filed on 12/16/2004 is acknowledged. The traversal is on the ground(s) that there is no unduly extensive or burdensome search required to examine both groups of claims. This is not found persuasive because, while a portion of the search for each group might overlap, the entire search for each is not the same. This additional searching for any one group does create a burden for the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowe et al. '362 in view of Colson Jr. et al. '450 and McGrady '588.

Cowe et al. disclose a dispenser inventory monitor system comprising: a dispenser 10; a remote inventory data center 14 (See for example Col. 14, lines 51+) in electronic communication with the dispenser; a remote vendor 18 in electronic communication with the dispenser; a plurality of compartments in the dispenser, each compartment having an electronic inventory sensor for monitoring and reporting inventory to the remote data center; the data center sending information electronically to

the remote vendor for replacement of items (See for example Col. 2, lines 40-47; Col. 3, lines 35-37; Col. 6, lines 1-2).

Cowe et al. lack the teaching of the dispenser being specifically a dispensing "cabinet"; the data center specifically sending an electronic "order" for replacement of the items.

Colson et al. teach a dispenser inventory monitor system whereby the dispenser is a "cabinet" with windows.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Cowe et al. to have the dispenser include a cabinet, as taught by Colson, in order to provide dispenser that is "tall" (See Colson et al. Col. 2, line 38) to allow stacking of shelves or compartments.

McGrady teaches a dispenser inventory monitor system including an automatic ordering system to automatically place orders for additional supplies with vendors (See for example McGrady Col. 4, lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify Cowe et al. to have the data center send an electronic order to the remote vendor, in view of McGrady, in order to maintain a desired supply level (See McGrady Col. 4, line 14).

Re claims 14-24, Cowe et al. teach the use of a variety of sensors for monitoring product items (See for example Cols. 7-10) and further teach that "additional types and arrangements of item sensors will be apparent to those skilled in the art". It would have

Art Unit: 3627

been an obvious design choice at the time of the invention to utilize any one of the types of sensors claimed by the applicant, in order to produce a desired result or outcome.

Conclusion

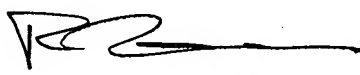
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached at (571) 272-6788.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

F. Zeender
Primary Examiner, A.U. 3627
April 15, 2005

 4/15/05
F. RYAN ZEENDER
PRIMARY EXAMINER